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May 15, 2006

The Honorable Kevin Martin  
Chairman, Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Mr. Chairman:

I am writing with respect to recent media reports about a massive program at the National Security Agency (NSA) designed to collect the telephone records of millions of Americans. According to these media reports, some of our nation's largest telecommunications carriers, namely AT&T, Verizon, and BellSouth, are working with that intelligence agency and disclosing to the NSA customer telephone calling information.

As you know, Section 222 of the Communications Act of 1934 (47 U.S.C. 222) contains prohibitions on the disclosure of such information by telecommunications carriers. Specifically, Section 222(a) states the following:

**“In General – Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunications carriers, equipment manufacturers, *and customers*, including telecommunications carriers reselling telecommunications services provided by a telecommunications carrier.” (Emphasis added.)**

The revelation that several telecommunications carriers are complicit in the NSA's once-secret program, raises the question as to whether these carriers are in violation of Section 222 of the Communications Act and the Commission's regulations implementing that section. As you know, one of the principal purposes of Section 222 is to safeguard the privacy of telecommunications consumers. I am aware of no exception in that statute or in the Commission's regulations for “intelligence gathering purposes,” or any other similar purpose, that would permit the wholesale disclosure of consumer records to any entity.

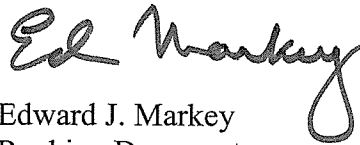
Also, at least one telecommunications carrier, Qwest, objected to participating in the NSA program. According to reports, it refused because it allegedly believed the program was illegal and violated the Communications Act.

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I would like to know what the Commission intends to do with respect to probing these apparent breaches of the customer privacy provisions of the Communications Act. Please provide me with a response which outlines the Commission's plan, in detail, for investigating and resolving these alleged violations of consumer privacy. In the alternative, please provide detailed legal reasoning as to why the Commission believes the NSA program, as described, is not violative of the law or the Commission's regulations and why the Commission is therefore not taking any enforcement action. I respectfully request a response to this inquiry by close of business on Monday, May 22, 2006.

Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Ed Markey". The signature is written in a cursive style with a large, looping "E" and a long, sweeping "y".

Edward J. Markey  
Ranking Democrat  
House Subcommittee on  
Telecommunications and the Internet